

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

MANINDER SINGH,

Defendant.

CASE NO. CR10-291 MJP

ORDER ON MOTION TO REDUCE
SENTENCE, MOTION TO APPOINT
COUNSEL

THIS MATTER comes before the Court on Defendant's motion to reduce his sentence pursuant to 18 U.S.C. § 3582 and Defendant's motion to appoint counsel. (Dkt. Nos. 124, 127.) Having considered the parties' briefing and the related record, the Court hereby DENIES the motions.

Background

Defendant Maninder Singh was sentenced on May 11, 2011, following his convictions for Conspiracy to Distribute Controlled Substances and for Conspiracy to Bring In and Transport Aliens. (CR10-254MJP, Dkt. No. 210; CR10-291MJP, Dkt. No. 95.) This Court calculated his Total Offense Level as 36 for both offenses. Because Defendant's Criminal History Category

1 was I, the Guidelines range for the Conspiracy to Distribute Controlled Substances charge was
2 188 to 235 months and the Guidelines range for the Conspiracy to Bring In and Transport Aliens
3 was a maximum of 120 months. This Court then varied downward from both ranges, imposing a
4 sentence of 96 months in each case, to run concurrently with the sentence in the other case.

5 Defendant now moves the Court for reduction in sentence based on Amendment 788 to
6 the Sentencing Guidelines which made Amendment 782 to USSG §2D1.1 retroactively
7 applicable. (Dkt. No. 124.) The Government opposes the motion. (Dkt. No. 128.) Defendant also
8 moves to have counsel appointed on this issue. (Dkt. No. 127.) The Federal Public Defender did
9 not request that counsel be appointed or join Defendant's request. (See Dkt. No. 125.)

10 Discussion

11 Amendment 782 to the United States Sentencing Guidelines, which became effective
12 November 1, 2014, lowered the penalties for most drug offenses by reducing most base offense
13 levels contained in the USSG § 2D1.1 Drug Quantity table by two levels, and making other
14 related adjustments to this Guideline. Along with Amendment 782, the Sentencing Commission
15 adopted Amendment 788, which decreed that Amendment 782 may be applied retroactively to
16 lower the sentences of previously sentenced inmates. At issue in the instant motion is whether
17 this Court has authority to reduce Defendant's sentence pursuant to 18 U.S.C. § 3582(c)(2).

18 In order to qualify for a sentence reduction under 18 U.S.C. § 3582(c)(2) two conditions
19 must be met: (1) the defendant must have been sentenced to a term of imprisonment based on a
20 sentencing range that has been lowered by a retroactively applicable Guidelines amendment; and
21 (2) the sentence reduction sought must be consistent with the Sentencing Commission's
22 applicable policy statements. United States v. Waters, 771 F.3d 679, 680 (9th Cir. 2014) (per
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24

1 curiam). A district court does not have jurisdiction to reduce the defendant's sentence unless
2 both criteria are met. See United States v. Wesson, 583 F.3d 728, 730 (9th Cir. 2009).

3 Under the retroactively effective amendments to USSG § 2D1.1, Defendant's Total
4 Offense Level would now be 34. This in turn results in an amended Guidelines range of 151–188
5 months. Because the sentence already imposed (92 months) is below the low end of the range as
6 calculated applying the amended Guidelines (151 months), the policy statement precludes any
7 reduction in sentence. See United States v. Davis, 739 F.3d 1222, 1224 (9th Cir. 2014).

8 **Conclusion**

9 Defendant is ineligible for a reduction in sentence under 18 U.S.C. § 3582(c)(2) because
10 the sentence already imposed is below the low end of the amended Guidelines range.

11 Defendant's motion to have counsel appointed is DENIED because the assistance of counsel
12 would not be helpful to Defendant; and Defendant's motion to reduce his sentence is also
13 DENIED.

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15 The clerk is ordered to provide copies of this order to Defendant and all counsel.

16 Dated this 6th day of August, 2015.

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19 Marsha J. Pechman
20 Chief United States District Judge
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